

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

GEORGE ARTHUR SMITH,
also known as "Lee,"

Plaintiff,

v.

TONY HOWERTON, *Warden,*

Defendant.

)
)
)
)
)
)
)
)
)
)
)

2:12-cv-399-CLC-SKL

ORDER

This *pro se* prisoner's petition for a federal writ of habeas corpus under 28 U.S.C. § 2254 is before the Court upon two motions, the first of which is Plaintiff's motion to appoint counsel to assist him in this matter [Doc. 11]. Though the constitutional right to counsel in criminal prosecutions does not apply to habeas corpus cases, *Barker v. Ohio*, 330 F.2d 594, 594 (6th Cir. 1964), a district court may appoint counsel to represent an indigent litigant. 28 U.S.C. § 1915(e). The appointment of counsel in a civil case is justified only upon a showing of exceptional circumstances. *Lavado v. Keohane*, 992 F.2d 601, 606 (6th Cir. 1993).

Upon careful consideration of the issues and complexity of this case and Plaintiff's ability to represent himself, the Court concludes that the appointment of counsel is not warranted under the particular circumstances presented here. *See Mira v. Marshall*, 806 F.2d 636 (6th Cir. 1986). The motion for appointment of counsel is therefore **DENIED**.

In the second motion before the Court, Plaintiff requests an extension of time to file a reply to Defendant's answer to the complaint [Doc. 12]. Plaintiff requested the Court allow him to submit a reply to Defendant's answer, and to permit the reply to be filed on or before November 21, 2013. Plaintiff has since filed a reply to Defendant's answer to the complaint [Doc. 13].

Under Rule 5(e) of the Rules Governing § 2254 Cases, Plaintiff “may submit a reply to the respondent’s answer or other pleading within a time fixed by the judge.” As Plaintiff has already filed his reply, the motion for extension is **DENIED** as moot and Plaintiff’s reply is deemed timely filed.

SO ORDERED.

ENTER:

s/ Susan K. Lee

SUSAN K. LEE
UNITED STATES MAGISTRATE JUDGE